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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,818	04/13/2004	Munetoshi Ueno	023971-0408	3456
22428	7590	09/26/2006	EXAMINER	
FOLEY AND LARDNER LLP			HO, HA DINH	
SUITE 500			ART UNIT	
3000 K STREET NW			PAPER NUMBER	
WASHINGTON, DC 20007			3681	

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/822,818	Applicant(s) UENO, MUNETOSHI	
	Examiner Ha D. Ho	Art Unit 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 8-12 is/are rejected.
- 7) ☒ Claim(s) 6 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to the Amendment filed on 07/20/06. Claims 1-12 are currently pending.

Election/Restrictions

2. Claim 4 was withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/30/05.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 5 and 8-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakamori et al (US 6,799,109).

Regarding claims 1 and 8-11, Nakamori et al show a motor torque control system for a vehicle equipped with a motor 3, comprising: a vehicle speed sensor 24 that detects or senses a phenomenon indicative of a vehicle speed; an accelerator opening detector 21 that detects an opening of an accelerator of the vehicle or senses a phenomenon indicative of a command to

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accelerate the vehicle; a brake depression detector 22 that detects a brake manipulated quantity indicative of a depression state of a brake of the vehicle or senses a phenomenon indicative of one of a command increasing magnitude and a command decreasing magnitude of a brake force of the vehicle; and a control unit U coupled to the vehicle speed sensor, the accelerator opening detector, and the brake depression detector, the control unit being arranged to bring a motor torque of the motor to zero when the vehicle speed is lower than a predetermined speed (when vehicle speed is zero), when the accelerator opening is substantially zero, and when the brake depression state is set at a braking increasing state of increasing a braking force of the vehicle (when the brake pedal is depressed), and to generate the motor torque according to the brake manipulated quantity when the brake depression state is set at a braking decreasing state of decreasing a braking force of the vehicle (when the brake pedal is released) (see col. 12, lines 32-46 and col. 13, lines 18-33).

Regarding claims 2 and 12, wherein the control unit is further arranged to control the motor torque when one of the braking increasing state and the braking decreasing state is maintained for a predetermined time period (see Fig. 10, t₁-t₃).

Regarding claim 3, wherein the control unit is further arranged to increase a rate of change of the motor torque according to the increase of the brake manipulated quantity when the brake depression state is set at the braking decreasing state (see Fig. 10, t₃-t₄).

Regarding claim 5, wherein the braking increasing state includes a state that a time rate of change of the brake manipulated quantity is a positive value (when the brake pedal is depressed), and the braking decreasing state includes a state that the time rate of change of the brake manipulated quantity is a negative value (when the brake pedal is released).

Allowable Subject Matter

5. Claims 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 7/20/06 have been fully considered but they are not persuasive.

7. Applicant argues that “*the brake sensor utilized by Nakamori does not and cannot detect whether a brake depression state is that of increasing a braking force on the vehicle*” (page 7, the last paragraph, lines 3-5). Examiner disagrees because the brake sensor 22 of Nakamori does detect a brake depression (i.e., when the brake pedal is depressed, the brake sensor 22 is ON. See col. 12, lines 36-37). Note that the braking force is increasing when the brake is from the released state (brake sensor is OFF) to the depressed state (brake sensor is ON). Figure 10 shows the brake sensor is from OFF to ON at time t1. Further, it is noted that the features upon which applicant relies (i.e., *the brake sensor does and can detect whether a brake depression state is that of increasing a braking force on the vehicle*) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Note that Nakamori shows the claimed features, i.e., a brake depression detector (brake sensor 22) that detects a brake manipulated quantity indicative of a depression state (when the brake is released, the sensor is OFF, and when the brake is depressed, the sensor is ON) of a brake of the vehicle.

8. Applicant further argues that “*Nakamori does not teach setting a torque to zero when the brake depression state is set at a braking increasing state of increasing a braking force of the vehicle*” (page 7, the last paragraph, lines 9-10) and “*the controller is arranged to generate the motor torque according to the brake manipulated quantity when the brake depression state is set at a braking decreasing state decreasing a braking force of the vehicle*” (page 8, the first paragraph, lines 1-3).

Examiner disagrees because Nakamori clearly shows at time t_1 , the engine is stopped (i.e., setting torque to zero) when the brake depression state is set at a braking increasing state (i.e., brake depressed and sensor is ON) of increasing a braking force (see col. 12, lines 32-46). Note that at time t_1 , the brake sensor is from OFF to ON because the brake is depressed from a released state, and the braking force is of course increasing from zero up to 100 when the brake is depressed from released state.

Nakamori further shows at time t_3 , the engine is started (i.e., motor torque is generated) when the brake depression state is set at a braking decreasing state (i.e., brake released and sensor is OFF) of decreasing a braking force (see col. 13, lines 18-33). Note that at time t_3 , the brake sensor is from ON to OFF because the brake is released from a depressed state, and the braking force is of course decreasing to zero when the brake is released from depressed state.

9. Note that the interpretation of the claimed ***braking increasing state*** is the state when the brake is depressed from released position (at time t_1), and the interpretation of the claimed ***braking decreasing state*** is the state when the brake is released from depressed position (at time t_3).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Communication

11. Submission of your response by facsimile transmission is encouraged. The fax phone numbers for the organization where this application or proceeding is assigned are **(571) 273-8300**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to
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Typed or printed name of person signing this certificate:

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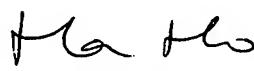
(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ha D. Ho whose telephone number is **571-272-7091**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on **571-272-7095**.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HDH
(571) 272-7091
September 19, 2006


HAHO
PRIMARY EXAMINER
Art Unit 3681 9/19/06